

## Internal Revenue Service, Treasury

## § 301.7401-1

fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the district director.

### PROVISIONS COMMON TO FORFEITURES

#### § 301.7321-1 Seizure of property.

Any property subject to forfeiture to the United States under any provision of the Code may be seized by the district director or assistant regional commissioner (alcohol, tobacco, and firearms). Upon seizure of property by the district director he shall notify the assistant regional commissioner (alcohol, tobacco, and firearms) for the region wherein the district is located who will take charge of the property and arrange for its disposal or retention under the provisions of law and regulations applicable thereto.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7188, 37 FR 12794, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976]

#### § 301.7322-1 Delivery of seized property to U.S. marshal.

Any forfeitable property which may be seized under the provisions of the Code may, at the option of the assistant regional commissioner (alcohol, tobacco, and firearms) be delivered to the U.S. marshal of the judicial district wherein the property was seized, and remain in the care and custody and under the control of such marshal, pending the disposal thereof as provided by law.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7188, 37 FR 12794, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976]

#### § 301.7324-1 Special disposition of perishable goods.

For regulations relating to the disposal of perishable goods, see § 172.30 of this chapter (Disposition of Seized Personal Property).

#### § 301.7325-1 Personal property valued at \$2,500 or less.

For regulations relating to the forfeiture of personal property valued at \$2,500 or less, see part 172 of this chapter (Disposition of Seized Personal Property).

#### § 301.7326-1 Disposal of forfeited or abandoned property in special cases.

(a) *Coin-operated gaming devices.* For regulations relating to the disposal of coin-operated gaming devices, see § 172.65 of this chapter (Disposition of Seized Personal Property).

(b) *Narcotics.* For regulations relating to the disposal of forfeited narcotic drugs, see 21 CFR 302.56. For the disposal of forfeited marihuana, see 26 CFR (1939) 152.99 and 152.100 (Regulations under the Marihuana Tax Act of 1937, as amended).

(c) *Firearms.* For regulations relating to the disposal of forfeited firearms or ammunition, see § 178.166 of this chapter (Commerce in Firearms and Ammunition), and § 179.182 of this chapter (Machine Guns, Destructive Devices, and Certain Other Firearms).

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7188, 37 FR 12796, June 29, 1972]

#### § 301.7327-1 Customs laws applicable.

For regulations relating to the remission or mitigation of forfeitures, see part 172 of this chapter (Disposition of Seized Personal Property).

## Judicial Proceedings

### CIVIL ACTIONS BY THE UNITED STATES

#### § 301.7401-1 Authorization.

(a) *In general.* No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner (or the Director, Alcohol, Tobacco and Firearms Division, with respect to the provisions of subtitle E of the Code), or the Chief Counsel for the Internal Revenue Service or his delegate authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

(b) *Property held by banks.* The Commissioner shall not authorize or sanction any civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, from any deposits held in a foreign office of a bank engaged in the banking business in the United States or a possession of the United States unless the Commissioner believes—

(1) That the taxpayer is within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned and that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States; or

(2) That the taxpayer is not within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned, that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office outside the United States or a possession of the United States, and that such deposits consist, in whole or in part, of funds transferred from the United States or a possession of the United States in order to hinder or delay the collection of a tax imposed by the Code.

For purposes of this paragraph, the term "possession of the United States" includes Guam, the Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7188, 37 FR 12796, June 29, 1972]

**§ 301.7403-1 Action to enforce lien or to subject property to payment of tax.**

(a) *Civil actions.* In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Commissioner (or the Director, Bureau of Alcohol, Tobacco, and Firearms, or the Chief Counsel for the Bureau, with respect to the provisions of subtitle E of the Code), or the Chief Counsel for the Internal Revenue Service or his delegate, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under the Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon

certification by the Commissioner or the Chief Counsel for the Internal Revenue Service during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(b) *Bid by the United States.* If property is sold to satisfy a first lien held by the United States, the United States may bid at the sale a sum which does not exceed the amount of its lien and the expenses of the sale. See also 31 U.S.C. 195.

[T.D. 7305, 39 FR 9950, Mar. 15, 1974]

**§ 301.7404-1 Authority to bring civil action for estate taxes.**

(a) If the estate tax imposed by chapter 11 of the Code is not paid on or before the last date prescribed for payment, the district director shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court.

(b) The remedy by action provided in section 7404 is not exclusive. The district director may proceed to collect the tax by levy, as provided in section 6331, on any or all property or rights to property of the estate, or collection may be enforced by an appropriate action against the executor, certain transferees, trustees, and beneficiaries for their personal liability. See § 20.2002-1 of this chapter (Estate Tax Regulations).

**§ 301.7406-1 Disposition of judgments and moneys recovered.**

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the district director as collections of internal revenue taxes.

**§ 301.7409-1 Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.**

(a) *Letter to organization.* When the Assistant Commissioner (Employee Plans and Exempt Organizations) concludes that a section 501(c)(3) organization has engaged in flagrant political intervention and is likely to continue